

REMARKS

Claims 1-26 and 51 remain in the application. Claims 1, 15, and 51 are in independent form.

Applicant would like to thank the Examiner for the courtesies extended to Applicant's representative, Amy E. Rinaldo, during the telephonic interview on July 7, 2006.

Claims 1-26 and 51 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Specifically, the Office Action holds that there is no physical transformation and no concrete, useful, and tangible result. Specifically, the specification at page 17, line 23 through page 18, line 16 discloses that the system provides a database of suggestions based upon the information entered by the user. The suggestions are generated by predetermined criteria that have previously been entered into the system, such that each time a keyword is entered the same suggestions are provided. In response thereto, the claims have been amended to recite that the information generated via the claimed system is stored for later use, thereby providing a concrete and tangible use of the information requested and generated by the system. Reconsideration of the rejection under 35 U.S.C. §101 is respectfully requested.

Claims 1, 2, 3, 5-16, 18-26, and 51 stand rejected under 35 U.S.C. §112, first paragraph, because the specification, does not reasonably provide enablement for "said selection mechanism prompting a user to enter detailed information at the time of patient care delivery." The Office Action has held that the augmenting system as claimed simply influences the physician's decisions at the time of patient care delivery and does not prompt a user to enter detailed

information at the time of patient care delivery as claimed. It is respectfully submitted that the claims have been amended herewith to recite that detailed information with regard to the care of the patient is elicited based upon the analysis of the information input by the user. The specification at page 17, line 23 through page 18, line 16 discloses that the system provides a database of suggestions based upon the information entered by the user. The suggestions are generated by predetermined criteria that have previously been entered into the system such that each time a keyword is entered the same suggestions are provided. Since there is disclosure in the specification as filed for the claims as amended, reconsideration of the rejection under 35 U.S.C. §112, first paragraph, is respectfully requested.

Claims 1, 2, 3, 5-16, 18-26, and 51 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, the Office Action holds that the specification does not convey "prompting a user to enter detailed information at the time of patient care delivery." It is respectfully submitted that the claims have been amended herewith to recite that detailed information with regard to the care of the patient is elicited based upon the analysis of the information input by the user. The specification at page 17, line 23 through page 18, line 16 discloses that the system provides a database of suggestions based upon the information entered by the user. The suggestions are generated by predetermined criteria that have previously been entered into the system such that each time a keyword is entered the same suggestions are provided. Since there is disclosure in the specification as filed for the claims as amended, reconsideration of the rejection under 35 U.S.C. §112, first paragraph, is respectfully requested.

Claims 1, 2, 3, 5-16, 18-26, and 51 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and

distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Office Action holds that the terms "intelligently suggesting more information", "to better comply", and "classify appropriately" lack comparative basis because the degree of compliance is unclear. In response thereto, Applicant has amended the claims to recite that detailed information with regard to the care of the patient is elicited based upon the analysis of the information input by the user and have removed the objected to language in order to further prosecution. Reconsideration of the rejection under 35 U.S.C. §112, second paragraph, is respectfully requested.

Claims 1, 2, 3, 5-16, 18-26, and 51 stand rejected under 35 U.S.C. § 102(e), as being anticipated by U.S. Patent No. 6,529,876, to Dart et al.. Reconsideration of the rejection under 35 U.S.C. § 102(e), as anticipated by the Dart et al. patent, as applied to the claims, is respectfully requested. Anticipation has always been held to require absolute identity in structure between the claimed structure and a structure disclosed in a single reference.

In Hybritech Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 231 U.S.P.Q. 81 (Fed. Cir. 1986) it was stated: "For prior art to anticipate under §102 it has to meet every element of the claimed invention."

In Richardson v. Suzuki Motor Co., Ltd., 868 F.2d 1226, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989) it was stated: "Every element of the claimed invention must be literally present, arranged as in the claim."

The Dart et al. patent discloses a system wherein a computer is directed by a computer program to perform a complete audit of E&M coding prior to billing thus ensuring compliance with statutory and regulatory requirements. In other words, the Dart et al. patent discloses a system that focuses on fixed information

to ensure that all fields have been completely filled in. The important feature of the system is to judge the quantity of information provided in order to verify that the proper amount of information is included.

In contradistinction, the system as recited in the presently pending independent claims is directed to the quality of information provided. The system is designed to improve the quality of information provided by requesting predetermined information based upon the existence of specific criteria. There are thousands of coding rules and some are dependent on specific information or verbiage that the clinician uses to document the patient's condition and the clinician's observations and conclusions. The presently pending independent claims recite a system that enables the user to better define the patient encounter by eliciting further details from the user based upon the information entered by the user.

Specifically, the selection option mechanism as recited in the presently pending independent claims requests the user to enter detailed information after a patient encounter in order to elicit accurate information. "Augmenting is achieved in response to a prompting, wherein the user notes additions or substitutions to the criteria and/or conclusions and makes adjustments accordingly." (Page 11, lines 12-14) The prompting/requesting is also related to the need for appropriate classification of inpatient services for compliance with governmental billing codes. When generating the correct code to submit for reimbursement by insurance companies, accurate information is required at the time of the patient's inpatient services, not at a subsequent inpatient encounter should they need to come back for more services. "Each information prompting form contains different prompts that query the health care provider to supply data or information regarding the patient encounters." (Page 23, lines 7-9) "The augmenting mechanism improves the accuracy of the medical coding and the

overall quality of patient care by influencing the physician's decisions at the time of patient care delivery." (Page 25, lines 11-13) Thus, after a patient encounter, the clinician can enter information in the system, and while doing so, is prompted at different points of the program to give additional or detailed information to accurately generate a billing code. Since the Dart et al., patent does not disclose the system of the presently pending independent claims, the claims are patentable over the Dart et al. patent and reconsideration of the rejection is respectfully requested.

The remaining dependent claims not specifically discussed herein are ultimately dependent upon the independent claims. References as applied against these dependent claims do not make up for the deficiencies of those references as discussed above, and the prior art references do not disclose the characterizing features of the independent claims discussed above. Hence, it is respectfully submitted that all of the pending claims are patentable over the prior art.

Applicant respectfully requests to be contacted by telephone if any remaining issues exist.

In summary, the presently claimed invention is in condition for allowance, which allowance is respectfully requested. If any remaining issues exist, Applicant respectfully requests to be contacted by telephone at (248) 539-5050.



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Respectfully submitted,

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